

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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|---------------------------------|---|------------------------|
| TONY R. HEWITT, ID # 37466-177, |) | |
| Movant, |) | |
| vs. |) | No. 3:16-CV-0603-B |
| |) | No. 3:08-CR-0167-B(02) |
| UNITED STATES OF AMERICA, |) | |
| Movant. |) | |


ORDER OF THE COURT ON RECOMMENDATION REGARDING
REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The request for leave to proceed *in forma pauperis* on appeal is GRANTED.
- (X) The application for leave to proceed *in forma pauperis* in the interlocutory appeal is DENIED because the Court certifies pursuant to Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith and that the appeal presents no legal points of arguable merit and is therefore frivolous.
- (X) Although this court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the movant may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order.

The Clerk's Office is **DIRECTED** to forward the application for leave to proceed *in forma pauperis* (doc. 24) to the Fifth Circuit.

DATE: December 12, 2016.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE